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CHAPTER IX

DEPOSITORIES - INVESTMENTS

DESIGNATION OF DEPOSITORIES

The Treasurer of State has on file a listing of all depositories which are eligible to receive public funds. [IC 5-13-8-1]

Once the clerk has determined which depository, or depositories, he or she desires to utilize, and verified the depository's eligibility, the clerk needs to seek approval of the local board of finance for the use of that depository.

When a depository has been designated, as provided by law, the clerk shall at once deposit all fees and funds in his custody to a checking account in such designated depository. All money received by the clerk in the conduct of the business of the office shall be deposited not later than the business day following the receipt of funds on business days of the depository in one (1) or more depositories. Withdrawals can only be made on checks signed by the clerk or his authorized deputy. [IC 5-13-6-1]

CASH CHANGE FUND

Clerks of the circuit courts are to establish a cash change fund to facilitate making change in handling collections. Such fund may be established in an amount, as determined and approved by the county council. [IC 36-1-8-2]

When such fund is approved and the amount determined, the auditor will draw a warrant for such amount on the county general fund and without appropriation being made therefor.

The clerk will convert the warrant into cash and will be held responsible for the custody, safekeeping and proper accounting in the same manner as other funds in his custody.

The entire cash change fund shall be returned to the fund from which it was advanced if and when it is no longer needed or upon change or custodians of such fund. [IC 36-1-8-2]

A verified claim must be prepared and filed with the auditor. The claim should contain a statement setting forth the necessity for the fund, the amount deemed necessary in the judgment of the clerk and a reference to the authority for its establishment.

Upon receipt of the auditor's warrant, the clerk will issue his official receipt thereof the same as if receiving other money. The amount will be treated as an item of trust and will be posted in the register of trust funds to the credit of "Treasurer _____ County, Cash Change Fund."

When the office is opened for the transaction of business the cash drawer shall not contain an amount in excess of the cash change fund approved by the county council and advanced by the warrant of the auditor.

Daily deposits thereafter shall be in the same amount as the receipts for the previous day. Retain only the amount of the cash change fund in the office. In no event shall receipts be held longer than the first business day after they are received.

The amount of the cash change fund shall be included each day in the Clerk's Cash Book and Daily Balance Record in the space following the words "Cash on Hand at End of Day."

At the expiration of any term of office, the clerk will disburse the amount of such fund from trust in favor of the county treasurer and make application to the auditor for repayment thereof.

PETTY CASH FUND

In like manner, a petty cash fund may be established for the purpose of paying small or emergency items of operating expense. A receipt shall be taken for each expenditure made from such fund. Periodically a voucher shall be filed by the clerk with the auditor to reimburse the fund for the expenditures so made. No reimbursement shall be made unless all original receipts in support of the cash expended are attached to the claim. The claim for reimbursement shall be approved and made in the same manner as is required for other expenditures (by the board of county commissioners). [IC 36-1-8-3]

AUTHORITY FOR INVESTMENTS

The board of county commissioners of each county may, by ordinance or resolution, authorize the purchase of investments. [IC 5-13-9-1]

The question has been raised whether the clerk of the circuit court may invest monies or deposit without the approval of the board of county commissioners. This question was posed to the Legislative Council and they advised that it was the intent of the Legislature that the clerk had authority to invest monies without the approval of the board of county commissioners. However, it might be prudent for the clerk of the circuit court to ask the board of county commissioners for a blanket approval to invest and reinvest monies on deposit in the clerk's office to avoid any legal problems.

The clerk is also authorized to invest funds when required by court order.

GENERAL LAW

The general law applicable to the investment of county funds is contained in IC 5-13-9.

The funds that may be invested under IC 5-13-9 include money raised by bonds issued for a future specific purpose, sinking funds, depreciation reserve funds, gift, bequest or endowment, and any other funds available for investment.

Each officer may invest or reinvest any funds that are held by the officer and available for investment in any of the following:

- (1) Securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States and issued by any of the following:
 - (a) The United States Treasury.
 - (b) A federal agency.
 - (c) A federal instrumentality.
 - (d) A federal government sponsored enterprise.
- (2) Discount notes issued by any of the following:
 - (a) A federal agency.
 - (b) A federal instrumentality.
 - (c) A federal government sponsored enterprise.

If an investment under section (1) is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

The officer making the investment may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases where the new securities offered in exchange meet the requirements for initial investment.

The clerk is the legal custodian of any securities purchased. The clerk shall accept safekeeping receipts from securities from:

1. A duly designated depository; or
2. A financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

The State Board of Accounts may rely on the safekeeping receipts from any depository or financial institution.

Soliciting Quotes

The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. A deposit made under this subsection shall be placed in the designated depository quoting the highest rate of interest. If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, at the investing officer's discretion.

If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated as a depository by the State Board of Finance.

The board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest in a deposit account or accounts of depositories that have not been designated by the board of finance of either but have been designated by the State Board of Finance as a depository for state investments.

With respect to any money to be invested in a deposit account under IC 5-13-9-5(b), the investing officer shall solicit quotes for the deposit account from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its board of finance, a quote must be solicited from that depository. If two (2) or more depositories have been designated for the political subdivision by its board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

Interest on Investments

All interest derived from an investment by a political subdivision or by any other local public office under the authority granted by IC 5-13-9-3 shall be deposited, except as otherwise provided by law, in the general fund of the investment authority or in any other fund its governing body designates specifically or by rule.

Interest from the following investments shall be receipted as follows:

1. Interest from investments of funds of a political subdivision that are traceable to United States government funds must be receipted to the fund of which they are a part, if required by federal law or regulation.
2. Interest from investments of funds controlled by court orders must be receipted to that fund unless otherwise designated by the court order.

Interest from the investment of public funds may not be paid personally or for the benefit of any public officer.

Investments made in accordance with IC 5-13-9-3(a)(1) and the interest earned or accrued on them are public funds as the term is defined in IC 5-13-4 and are covered by the insurance fund.

Service Charges

Any investing officer who makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all customers to pay the charge for providing that service. However, the service charge imposed must be considered in the computation of the interest rate for determining which depositories are entitled to investments. If the total service charge cannot be computed before the investment, the investing officer shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid by direct charge to the deposit or other account or in any other manner mutually agreed upon by the investing officer and the depository. [IC 5-13-9-8]

MANNER OF INVESTING FUNDS

When an investment is made, a check will be issued payable to the bank or financial institution from which the investment is purchased. The check should clearly state the purpose for its issuance. The check should then be delivered to the financial institution and the securities, or a safekeeping receipt, or passbook in the case of a savings account, should be obtained by the clerk.

POSTING INVESTMENTS TO CLERK'S RECORDS

When an investment is made from "total monies on deposit," the check issued by the clerk will not be posted as a disbursement in the cash book. This is for the reason that funds are not actually disbursed but are merely transferred to an investment account. No entries will be made in the upper portion of the clerk's cash book and daily balance record. However, the investment purchased should be shown in the daily cash reconciliation section of the clerk's cash book and daily balance record in the following manner:

<u>Name of Depository</u>	<u>Depository Balance at Beginning of Day</u>	<u>Deposits During the Day</u>	<u>Checks Issued During Day</u>	<u>Depository Balance at Close of Day</u>
First National Bank Investments		\$ 10,000.00		

The \$10,000.00 investment purchased, as shown above, would be added to the investments on hand at the beginning of the day and the total would be shown in the "Depository Balance at Close of Day" column and this total would be carried forward as the balance at the beginning of the next day.

On a sale or maturity of investments the amount sold would be shown on the investments line in the "Checks Issued During Day" column and the amount received from the sale would be included in the "Deposits During the Day" in the bank to which the proceeds were deposited.

The clerk must keep a "Register of Investments," General Form No. 350. All investments must be entered in the register of investments at the time of purchase. The register will also be used to record receipts upon maturity of investments, including interest received thereon. The total of the investments (principal) should at all times agree with the entries of the "Investments" account in the daily balance record.

An official receipt must be issued for interest received to be posted in the cash book. The receipt should also indicate thereon the security (investment) on which the interest was received and, if the security matured, the principal (original cost) of the security for use as a posting media to the daily balance record. The interest should be posted to the interest column in the receipts section of the Cash Book of Receipts and Disbursements. The interest will then be paid to the county treasurer and quietused to the county general fund at the close of the month when fees and other revenues are remitted to the county.

There may be instances where the court will order certain trust funds to be invested and the interest earned on such investments to be credited to that specific trust fund item. In such cases the procedures for recording the investment will be handled in the same manner as other investments. In addition, a notation should be made on the entry docket applicable to this trust item that the amount has been invested per order of the court. The only difference between a court ordered investment and investments made by the clerk from total monies on deposit is in accounting for the interest earned on the investment.

An official receipt must be issued for interest received to be posted in the cash book. The receipt should also indicate thereon the security (investment) on which the interest was received and, if the security matured, the principal (original cost) of the security for use as a posting media to the daily balance record. The interest should be posted to the trust account in favor of the individual(s) or other entity as designated by the court order.

MONTHLY REPORT - FORM NO. 46-CR

The total amount invested should be shown on the monthly financial report on Line 12 "Investments on hand at close of business last day of the month."

RENEWAL OF CERTIFICATES OF DEPOSIT

In view of the provisions of the Depository Act, it is our opinion that a certificate of deposit may be renewed for an additional term, without the original certificate of deposit being paid by the depository, and a check being issued for the purpose of a new certificate of deposit.

In the event a certificate of deposit is renewed, the amount of interest earned should be paid to the clerk at each maturity date, so the records will reflect the amount invested at all times. The interest should not be added to the original deposit and the total reinvested by the depository.

There is no authority for the "roll-over" or reinvestment of funds by a depository. The transactions must be handled through the records of the clerk's office.

INVESTMENT CASH MANAGEMENT SYSTEM

The fiscal body and investing officer of a political subdivision may contract with a depository for the operation of an investment cash management system.

The contract must:

- (1) Be in writing;
- (2) Provide for the investment of funds by the depository with the approval of the investing officer;
- (3) Provide that the depository keep those records concerning the investment cash management system that the political subdivision would maintain for audits by the State Board of Accounts;
- (4) Provide that investments will be made in accordance with this article;
- (5) Not have a term of more than two (2) years; and
- (6) Be awarded under the bidding provisions of IC 36-1-9.

If no designated depository whose principal office or branch is located within the political subdivision will provide an investment cash management service permitted in this chapter, then the contract for an investment cash management service must be awarded as provided in IC 5-13-8-9(c). If the investment cash management service contract is awarded to a financial institution whose principal office or branch is located outside the political subdivision, then the recipient of the contract does not constitute a designated depository of the political subdivision for purposes of investment under IC 5-13-9-3 unless it meets the limitation of IC 5-13-9-4 or IC 5-13-9-5, but does not constitute a depository for all purposes.

The contract may provide for the depository to assess a service charge for its management of the investment cash management system. The service charge may be paid by direct charge to the deposit or other account in any other manner mutually agreed upon by the investing officer and the depository.

The depository shall furnish the political subdivision with at least one (1) report each month of transactions concerning the investment cash management system. The depository shall credit any interest or other accretion from an investment to the investment account. The interest or accretion becomes part of that account.

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